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12 CHEX SYSTEMS, INC.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 LORENZO ROBERTSON,
12 Plaintiff,
13 vs.
14 EXPERIAIN INFORMATION SOLUTIONS,
15 INC.,
16 TRANS UNION, LLC.,
17 CHEXSYSTEMS, INC.,
18 FIRST ADVANTAGE SAFERENT, INC.,
19 Defendants.

Case No.: 5:11-CV-03896 HRL
Hon. Howard R. Lloyd
Dept. 2

**NOTICE OF MOTION AND MOTION
TO DISMISS FOR FAILURE TO
STATE A CLAIM**
FED R. CIV. P. 12(B)(6)

Date: October 25, 2011
Time: 10:00 a.m.
Dept.: 2

Complaint Filed: June 29, 2011

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE THAT on October 25, 2011, at 10:00 a.m. or as soon thereafter
23 as counsel can be heard in Department 2 of the above-entitled Court, located at 280 South 1st
24 Street, San Jose, California 95113, Defendant Chex Systems, Inc. ("Chex") will move to dismiss
25 the Complaint in this action pursuant to Fed. R. Civ. P. 12(b)(6).
26

27 The Motion is based upon the fact that none of Plaintiff's causes of actions allege facts
28 sufficient to state a claim. Specifically, Plaintiff's cause of action against Defendant Chex

1 contains no factual allegations demonstrating that liability is plausible. Instead he pleads nothing
 2 more than "a formulaic recitation of the elements of a cause of action." *Ashcroft v. Iqbal*, 129 S.
 3 Ct. 1937, 1950 (May 18, 2009) (quoting *Bell Atl. Corp v. Twombly*, 550 U.S. 544, 555 (2007)).
 4 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory
 5 statements, do not suffice."). Moreover, Plaintiff has otherwise failed to state a claim in that his
 6 pleading ignores several elements of his purported claim. For instance, Plaintiff must allege that
 7 the falsity within his credit report resulted from a failure to maintain adequate procedures to
 8 assure accuracy to state a claim for inaccurate reporting. Plaintiff does not so allege. Further,
 9 Plaintiff's claim regarding Chex' failure to investigate his dispute fails because Plaintiff does not
 10 allege that he requested reinvestigation, or that Chex refused to reinvestigate his dispute. Finally,
 11 Plaintiff has failed to allege that Chex would have discovered the inaccuracy had it investigated.

12 This Motion is based on this Notice of Motion, the accompanying Memorandum of Points
 13 and Authorities, the Complaint, and upon all other papers on file in this action.

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15 DATED: September 1, 2011

SEVERSON & WERSON
 A Professional Corporation

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By: /s/ Eric J. Troutman
 ERIC J. TROUTMAN

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Attorneys for Defendant
 CHEX SYSTEMS, INC.

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CERTIFICATE OF SERVICE

I, the undersigned, declare that I am over the age of 18 and am not a party to this action. I am employed in the City of Irvine, California; my business address is Severson & Werson, The Atrium, 19100 Von Karman Ave., Suite 700, Irvine, CA 92612.

On the date below I served a copy, with all exhibits, of the following document(s): **NOTICE OF MOTION AND MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM** on all interested parties in said case addressed as follows:

LORENZO ROBERTSON
715 Lexington Place
Gilroy, CA 95020

Plaintiff, In Pro Per

Email: lrobertson1966@gmail.com

Eric J. Hardeman, Esq.
JONES DAY
3161 Michelson Drive, Suite 800
Irvine, CA 92612

Attorneys for Defendant
EXPERIAN INFORMATION SOLUTIONS, INC.

Telephone: (949) 851-3939

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(BY MAIL) By placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in Irvine, California in sealed envelopes with postage fully prepaid.

(BY HAND) By placing the documents in an envelope or package addressed to the persons listed above and providing them to a professional messenger service for delivery.

(BY FEDERAL EXPRESS) By depositing copies of the above documents in a box or other facility regularly maintained by Federal Express with delivery fees paid or provided for.

(BY EXPRESS MAIL) By placing the above documents in the United States mail for Express Mail delivery at The Atrium, 19100 Von Karman Ave., Suite 700, Irvine, CA 92612, a sealed envelope addressed as above, with Express Mail postage thereon fully prepaid.

(BY FAX) By use of facsimile machine telephone number (949) 442-7118, I faxed a true copy to the addressee(s) listed above at the facsimile number(s) noted after the party's address. The transmission was reported as complete and without error.

(BY ELECTRONIC SERVICE) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF system sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's EC/ECF system.

(BY ELECTRONIC TRANSMISSION) By sending a file of the above documents(s) via electronic transmission (e-mail) at _____ am./pm. using e-mail address (@severson.com) to the e-mail address designed for each party identified above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. This declaration is executed in Irvine, California, on September 1, 2011.

/s/ Victoria A. McCay
Victoria A. McCay